



# Senate

General Assembly

**File No. 622**

*January Session, 2007*

Substitute Senate Bill No. 1398

*Senate, April 30, 2007*

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

## ***AN ACT CONCERNING COURT OPERATIONS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 51-36 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective July*  
3 *1, 2007*):

4 (a) The Chief Court Administrator may cause any and all court  
5 records, papers or documents, and all other records, papers or  
6 documents maintained by the judicial branch, required to be retained  
7 indefinitely or for a period of time defined by (1) rules of court, (2)  
8 directives promulgated by the Office of the Chief Court Administrator,  
9 or (3) statute, to be microfilmed or reproduced as a computerized  
10 image. The device used to reproduce such records, papers or  
11 documents on microfilm or as a computerized image shall be one  
12 which accurately reproduces the original thereof in detail. Such  
13 microfilm or computerized image shall be considered and treated the  
14 same as the original records, papers or documents, provided a  
15 certificate of authenticity appears on each roll of microfilm and a paper

16 or electronic certificate of authenticity is associated with each  
17 computerized image in accordance with policies and procedures  
18 adopted by the Office of the Chief Court Administrator. A transcript,  
19 exemplification or certified copy thereof shall for all purposes be  
20 deemed to be a transcript, exemplification or certified copy of the  
21 original. The original [court] records, papers or documents so  
22 reproduced may be disposed of in such manner as approved by the  
23 Office of the Chief Court Administrator. For the purposes of this  
24 subsection, "microfilm" includes microcard, microfiche,  
25 microphotograph, electronic medium or any other process which  
26 actually reproduces or forms a durable medium for so reproducing the  
27 original, and "computerized image" means any electronic reproduction  
28 of the original by a computer-based imaging system or process.

29 Sec. 2. Subsection (d) of section 51-36 of the general statutes is  
30 repealed and the following is substituted in lieu thereof (*Effective July*  
31 *1, 2007*):

32 (d) All court records other than records concerning title to land may  
33 be destroyed in accordance with rules of court. Records concerning  
34 title to land shall not be subject to any such destruction, [and may be  
35 retained in an electronic format,] except that official notes and tapes of  
36 evidence or judicial proceedings concerning title to land may be  
37 destroyed. Records concerning title to land may be retained in an  
38 electronic format. All court records may be transferred to any agency  
39 of this state or to any federal agency in accordance with rules of court  
40 or directives promulgated by the Office of the Chief Court  
41 Administrator, provided records in any action concerning title to land  
42 terminated by a final judgment affecting any right, title or interest in  
43 real property shall be retained for not less than forty years in the office  
44 of the clerk of the court location in which the judgment was rendered.  
45 Any other judicial branch books, records, papers or documents may be  
46 destroyed or transferred to any agency of this state or to any federal  
47 agency in accordance with directives promulgated by the Office of the  
48 Chief Court Administrator.

49       Sec. 3. Section 52-180 of the general statutes is repealed and the  
50 following is substituted in lieu thereof (*Effective October 1, 2007*):

51       (a) Any writing or record, whether in the form of an entry in a book  
52 or otherwise, made as a memorandum or record of any act,  
53 transaction, occurrence or event, shall be admissible as evidence of the  
54 act, transaction, occurrence or event, if the trial judge finds that it was  
55 made in the regular course of any business, and that it was the regular  
56 course of the business to make the writing or record at the time of the  
57 act, transaction, occurrence or event or within a reasonable time  
58 thereafter.

59       (b) The writing or record shall not be rendered inadmissible by (1) a  
60 party's failure to produce as witnesses the person or persons who  
61 made the writing or record, or who have personal knowledge of the  
62 act, transaction, occurrence or event recorded, or (2) the party's failure  
63 to show that such persons are unavailable as witnesses. Either of such  
64 facts and all other circumstances of the making of the writing or  
65 record, including lack of personal knowledge by the entrant or maker,  
66 may be shown to affect the weight of the evidence, but not to affect its  
67 admissibility.

68       (c) Except as provided in the Freedom of Information Act, as  
69 defined in section 1-200, if any person in the regular course of business  
70 has kept or recorded any memorandum, writing, entry, print,  
71 representation or combination thereof, of any act, transaction,  
72 occurrence or event, and in the regular course of business has caused  
73 any or all of them to be recorded, copied or reproduced by any  
74 photographic, photostatic, microfilm, microcard, miniature  
75 photographic, computer-based imaging or other process which  
76 accurately reproduces or forms a durable medium for so reproducing  
77 the original, the original may be destroyed in the regular course of  
78 business unless its preservation is otherwise required by statute. The  
79 reproduction, when satisfactorily identified, shall be as admissible in  
80 evidence as the original in any judicial or administrative proceeding,  
81 whether the original is in existence or not, and an enlargement or

82 facsimile of the reproduction shall be likewise admissible in evidence if  
83 the original reproduction is in existence and available for inspection  
84 under direction of court. The introduction of a reproduced record,  
85 enlargement or facsimile shall not preclude admission of the original.

86 (d) [The term "business" shall include] For the purposes of this  
87 section, "business" includes any business, profession, occupation [and  
88 calling of every kind] or calling.

89 Sec. 4. Section 52-259b of the general statutes is repealed and the  
90 following is substituted in lieu thereof (*Effective October 1, 2007*):

91 (a) In any civil or criminal matter, if the court finds that a party is  
92 indigent and unable to pay a fee or fees payable to the court or to pay  
93 the cost of service of process, the court shall waive such fee or fees and  
94 the cost of service of process shall be paid by the state.

95 (b) There shall be a rebuttable presumption that a person is indigent  
96 and unable to pay a fee or fees or the cost of service of process if (1)  
97 such person receives public assistance, or (2) such person's income  
98 after taxes, mandatory wage deductions and child care expenses is one  
99 hundred twenty-five per cent or less of the federal poverty level. For  
100 the purposes of this subsection, "public assistance" includes, but is not  
101 limited to, state-administered general assistance, temporary family  
102 assistance, aid to the aged, blind and disabled, food stamps and  
103 Supplemental Security Income.

104 (c) Nothing in this section shall preclude the court from finding that  
105 a person whose income does not meet the criteria of subsection (b) of  
106 this section is indigent and unable to pay a fee or fees or the cost of  
107 service of process. If an application for the waiver of the payment of a  
108 fee or fees or the cost of service of process is denied, the court clerk  
109 shall, upon the request of the applicant, schedule a hearing on the  
110 application.

111 (d) Any copying fee payable to the court clerk pursuant to section  
112 52-259 shall be waived for a person who is indigent and unable to pay

113 such fee, in accordance with criteria established by the judicial branch.

114 Sec. 5. Subsection (a) of section 53a-39a of the general statutes is  
115 repealed and the following is substituted in lieu thereof (*Effective*  
116 *October 1, 2007*):

117 (a) In all cases where a defendant has been convicted of a  
118 misdemeanor or a felony, other than a capital felony, a class A felony  
119 or a violation of section 21a-278, 21a-278a, 53a-55, 53a-56, 53a-56b, 53a-  
120 57, 53a-58 or 53a-70b or any other offense for which there is a  
121 mandatory minimum sentence which may not be suspended or  
122 reduced by the court, after trial or by a plea of guilty without trial, and  
123 a term of imprisonment is part of a stated plea agreement or the  
124 statutory penalty provides for a term of imprisonment, the court may,  
125 in its discretion, order an assessment for placement in an alternate  
126 incarceration program under contract with the Judicial Department. If  
127 the Court Support Services Division recommends placement in an  
128 alternate incarceration program, it shall also submit to the court a  
129 proposed alternate incarceration plan. Upon completion of the  
130 assessment, the court shall determine whether such defendant shall be  
131 ordered to participate in such program as an alternative to  
132 incarceration. If the court determines that the defendant shall  
133 participate in such program, the court shall suspend any sentence of  
134 imprisonment and shall make participation in the alternate  
135 incarceration program a condition of probation as provided in section  
136 53a-30. If the court orders the defendant to participate in an alternate  
137 incarceration program pursuant to such alternate incarceration plan,  
138 such plan shall be a matter of public record.

139 Sec. 6. Section 54-33c of the general statutes is repealed and the  
140 following is substituted in lieu thereof (*Effective October 1, 2007*):

141 (a) The applicant for the search warrant shall file the application for  
142 the warrant and all affidavits upon which the warrant is based with  
143 the clerk of the court for the geographical area within which any  
144 person who may be arrested in connection with or subsequent to the  
145 execution of the search warrant would be presented with the return of

146 the warrant. The warrant shall be executed within ten days and  
147 returned with reasonable promptness consistent with due process of  
148 law and shall be accompanied by a written inventory of all property  
149 seized. A copy of such warrant shall be given to the owner or occupant  
150 of the dwelling, structure, motor vehicle or place designated therein, or  
151 the person named therein. Within forty-eight hours of such search, a  
152 copy of the application for the warrant and a copy of all affidavits  
153 upon which the warrant is based shall be given to such owner,  
154 occupant or person. The judge or judge trial referee may, by order,  
155 dispense with the requirement of giving a copy of the affidavits to  
156 such owner, occupant or person at such time if the applicant for the  
157 warrant files a detailed affidavit with the judge or judge trial referee  
158 which demonstrates to the judge or judge trial referee that (1) the  
159 personal safety of a confidential informant would be jeopardized by  
160 the giving of a copy of the affidavits at such time, [or] (2) the search is  
161 part of a continuing investigation [which] that would be adversely  
162 affected by the giving of a copy of the affidavits at such time, or (3) the  
163 giving of such affidavits at such time would require disclosure of  
164 information or material prohibited from being disclosed by chapter  
165 959a. If the judge or judge trial referee dispenses with the requirement  
166 of giving a copy of the affidavits at such time, such order shall not  
167 affect the right of such owner, occupant or person to obtain such copy  
168 at any subsequent time. No such order shall limit the disclosure of  
169 such affidavits to the attorney for a person arrested in connection with  
170 or subsequent to the execution of a search warrant unless, upon  
171 motion of the prosecuting authority within two weeks of such person's  
172 arraignment, the court finds that the state's interest in continuing  
173 nondisclosure substantially outweighs the defendant's right to  
174 disclosure.

175 (b) Any order dispensing with the requirement of giving a copy of  
176 the warrant application and accompanying affidavits to such owner,  
177 occupant or person within forty-eight hours shall be for a specific  
178 period of time, not to exceed two weeks beyond the date the warrant is  
179 executed. Within that time period, the prosecuting authority may seek  
180 an extension of such period. Upon the execution and return of the

181 warrant, affidavits which have been the subject of such an order shall  
182 remain in the custody of the clerk's office in a secure location apart  
183 from the remainder of the court file.

184 (c) Any request by the prosecuting authority, made subsequent to  
185 an arrest, to extend an order sealing an affidavit in support of a search  
186 warrant shall be a matter of public record. An extension of the order  
187 shall be granted if the court finds that the order is necessary to  
188 preserve an interest that is determined to override the public's interest  
189 in viewing the affidavit, or for good cause shown. An oral  
190 representation by the prosecuting authority that (1) the personal safety  
191 of a confidential informant would be jeopardized, (2) the search is part  
192 of a continuing investigation that would be adversely affected, or (3)  
193 the unsealing of the affidavit would require disclosure of information  
194 or material prohibited from being disclosed by chapter 959a may be  
195 sufficient to establish good cause. Any such extension shall be to a date  
196 certain, not to exceed ninety days from the date of the request. The  
197 prosecuting authority may seek more than one such extension, but no  
198 single extension shall exceed ninety days.

199 Sec. 7. Subsection (d) of section 54-56d of the general statutes is  
200 repealed and the following is substituted in lieu thereof (*Effective*  
201 *October 1, 2007*):

202 (d) If the court finds that the request for an examination is justified  
203 and that, in accordance with procedures established by the judges of  
204 the Superior Court, there is probable cause to believe that the  
205 defendant has committed the crime for which the defendant is  
206 charged, the court shall order an examination of the defendant as to his  
207 or her competency. The court may (1) appoint one or more physicians  
208 specializing in psychiatry to examine the defendant, or (2) order the  
209 Commissioner of Mental Health and Addiction Services to conduct the  
210 examination either (A) by a clinical team consisting of a physician  
211 specializing in psychiatry, a clinical psychologist and one of the  
212 following: A clinical social worker licensed pursuant to chapter 383b or  
213 a psychiatric nurse clinical specialist holding a master's degree in

214 nursing, or (B) by one or more physicians specializing in psychiatry,  
215 except that no employee of the Department of Mental Health and  
216 Addiction Services who has served as a member of a clinical team in  
217 the course of such employment for at least five years prior to October  
218 1, 1995, shall be precluded from being appointed as a member of a  
219 clinical team. If the Commissioner of Mental Health and Addiction  
220 Services is ordered to conduct the examination, the commissioner shall  
221 select the members of the clinical team or the physician or physicians.  
222 If the examiners determine that the defendant is not competent, the  
223 examiners shall then determine whether there is a substantial  
224 probability that the defendant, if provided with a course of treatment,  
225 will regain competency within the maximum period of any placement  
226 order under this section. If the examiners determine that there is a  
227 substantial probability that the defendant, if provided with a course of  
228 treatment, will regain competency within the maximum period of any  
229 placement order under this section, the examiners shall then determine  
230 whether the defendant appears to be eligible for civil commitment,  
231 with monitoring by the Court Support Services Division, pursuant to  
232 subdivision (2) of subsection (h) of this section. The court may  
233 authorize a physician specializing in psychiatry, a clinical  
234 psychologist, a clinical social worker licensed pursuant to chapter 383b  
235 or a psychiatric nurse clinical specialist holding a master's degree in  
236 nursing selected by the defendant to observe the examination. Counsel  
237 for the defendant may observe the examination. The examination shall  
238 be completed within fifteen days from the date it was ordered and the  
239 examiners shall prepare and sign, without notarization, a written  
240 report and file such report with the court within twenty-one business  
241 days of the date of the order. On receipt of the written report, the clerk  
242 of the court shall cause copies to be delivered immediately to the  
243 state's attorney and to counsel for the defendant. The written report  
244 shall be sealed, but only as to the public, and the contents of the report  
245 shall not be disclosed, except during any hearing as to the competency  
246 of the defendant at which such contents are relied upon by a  
247 participant as the basis for testimony, questioning of witnesses,  
248 arguments to the court or judicial findings.



249 Sec. 8. Subsection (f) of section 54-56d of the general statutes is  
250 repealed and the following is substituted in lieu thereof (*Effective*  
251 *October 1, 2007*):

252 (f) If the court, after the hearing, finds that the defendant is  
253 competent, the court shall continue with the criminal proceedings. If  
254 the court finds that the defendant is not competent, the court shall also  
255 find whether there is a substantial probability that the defendant, if  
256 provided with a course of treatment, will regain competency within  
257 the maximum period of any placement order permitted under this  
258 section. The court shall state on the record the reasons for the court's  
259 finding that the defendant is competent or not competent.

260 Sec. 9. Subsection (b) of section 54-56g of the general statutes is  
261 repealed and the following is substituted in lieu thereof (*Effective*  
262 *October 1, 2007*):

263 (b) The court, after consideration of the recommendation of the  
264 state's attorney, assistant state's attorney or deputy assistant state's  
265 attorney in charge of the case, may, in its discretion, grant such  
266 application. If the court grants such application, it shall refer such  
267 person to the Court Support Services Division for assessment and  
268 confirmation of the eligibility of the applicant and to the Department  
269 of Mental Health and Addiction Services for evaluation. The Court  
270 Support Services Division, in making its assessment and confirmation,  
271 may rely on the representations made by the applicant under oath in  
272 open court with respect to convictions in other states of offenses  
273 specified in subsection (a) of this section. Upon confirmation of  
274 eligibility and receipt of the evaluation report, the defendant shall be  
275 referred to the Department of Mental Health and Addiction Services  
276 by the Court Support Services Division for placement in an  
277 appropriate alcohol intervention program for one year, or be placed in  
278 a state-licensed substance abuse treatment program. Any person who  
279 enters the system shall agree: (1) To the tolling of the statute of  
280 limitations with respect to such crime, (2) to a waiver of such person's  
281 right to a speedy trial, (3) to complete ten or fifteen counseling sessions

282 in an alcohol intervention program or successfully complete a  
283 substance abuse treatment program of not less than twelve sessions  
284 pursuant to this section dependent upon the evaluation report and the  
285 court order, (4) upon completion of participation in the alcohol  
286 intervention program, to accept placement in a treatment program  
287 upon recommendation of a provider under contract with the  
288 Department of Mental Health and Addiction Services pursuant to  
289 subsection (d) of this section or placement in a state-licensed treatment  
290 program which meets standards established by the Department of  
291 Mental Health and Addiction Services, if the Court Support Services  
292 Division deems it appropriate, and (5) if ordered by the court, to  
293 participate in at least one victim impact panel. The suspension of the  
294 motor vehicle operator's license of any such person pursuant to section  
295 14-227b shall be effective during the period such person is  
296 participating in such program, provided such person shall have the  
297 option of not commencing the participation in such program until the  
298 period of such suspension is completed. If the Court Support Services  
299 Division informs the court that the defendant is ineligible for the  
300 system and the court makes a determination of ineligibility or if the  
301 program provider certifies to the court that the defendant did not  
302 successfully complete the assigned program or is no longer amenable  
303 to treatment, the court shall order the court file to be unsealed, enter a  
304 plea of not guilty for such defendant and immediately place the case  
305 on the trial list. If such defendant satisfactorily completes the assigned  
306 program, such defendant may apply for dismissal of the charges  
307 against such defendant and the court, on reviewing the record of the  
308 defendant's participation in such program submitted by the Court  
309 Support Services Division and on finding such satisfactory completion,  
310 shall dismiss the charges. If the defendant does not apply for dismissal  
311 of the charges against such defendant after satisfactorily completing  
312 the assigned program the court, upon receipt of the record of the  
313 defendant's participation in such program submitted by the Court  
314 Support Services Division, may on its own motion make a finding of  
315 such satisfactory completion and dismiss the charges. Upon motion of  
316 the defendant and a showing of good cause, the court may extend the

317 one-year placement period for a reasonable period for the defendant to  
318 complete the assigned program. A record of participation in such  
319 program shall be retained by the Court Support Services Division for a  
320 period of [seven] ten years from the date of application. The Court  
321 Support Services Division shall transmit to the Department of Motor  
322 Vehicles a record of participation in such program for each person who  
323 satisfactorily completes such program. The Department of Motor  
324 Vehicles shall maintain for a period of [seven] ten years the record of a  
325 person's participation in such program as part of such person's driving  
326 record. The Court Support Services Division shall transmit to the  
327 Department of Environmental Protection the record of participation of  
328 any person who satisfactorily completes such program who has been  
329 charged with a violation of the provisions of section 15-133, 15-140l or  
330 15-140n. The Department of Environmental Protection shall maintain  
331 for a period of [seven] ten years the record of a person's participation  
332 in such program as a part of such person's boater certification record.

333 Sec. 10. Section 54-143b of the general statutes is repealed and the  
334 following is substituted in lieu thereof (*Effective October 1, 2007*):

335 The total amount of any forfeited bond for a motor vehicle violation,  
336 when such bond is composed in part of an additional fee established  
337 under [subsection (c) of] section 51-56a, any cost established under  
338 subsection (b) of section 54-143 or any cost established under section  
339 54-143a, shall be deposited in the General Fund as one undifferentiated  
340 lump sum amount or deposited in the Special Transportation Fund as  
341 one undifferentiated lump sum amount as may be required by statute.

342 Sec. 11. (*Effective July 1, 2007*) (a) The sum of one million dollars is  
343 appropriated to the Judicial Department, from the General Fund, for  
344 the fiscal year ending June 30, 2008, for an evaluation of security in  
345 courthouse parking areas.

346 (b) The sum of nine million dollars is appropriated to the Judicial  
347 Department, from the General Fund, for the fiscal year ending June 30,  
348 2008, for the installation of courthouse security systems.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>July 1, 2007</i>	51-36(a)
Sec. 2	<i>July 1, 2007</i>	51-36(d)
Sec. 3	<i>October 1, 2007</i>	52-180
Sec. 4	<i>October 1, 2007</i>	52-259b
Sec. 5	<i>October 1, 2007</i>	53a-39a(a)
Sec. 6	<i>October 1, 2007</i>	54-33c
Sec. 7	<i>October 1, 2007</i>	54-56d(d)
Sec. 8	<i>October 1, 2007</i>	54-56d(f)
Sec. 9	<i>October 1, 2007</i>	54-56g(b)
Sec. 10	<i>October 1, 2007</i>	54-143b
Sec. 11	<i>July 1, 2007</i>	New section

**JUD*****Joint Favorable Subst.***

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

### **OFA Fiscal Note**

#### **State Impact:**

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Judicial Dept.	GF - Cost	10,000,000	0
Judicial Dept.	GF - Revenue Gain	Minimal	Minimal

Note: GF=General Fund

#### **Municipal Impact:**

Municipalities	Effect	FY 08 \$	FY 09 \$
All Municipalities	Revenue Loss	Minimal	Minimal

### **Explanation**

Section 4 facilitates the waiver of any copying fee payable to the clerk for a person who is indigent. The resulting revenue loss, if any, to the General Fund would be negligible.

Section 10 provides that, when the \$10 fee imposed under PA 06-106 (and remitted to the municipality in which the violation occurred) is included in the total amount of any forfeited bond for a motor vehicle violation, it shall be included in the lump sum amount deposited by the Judicial Department into the General Fund. The \$10 fee is seldom included in the total amount of a forfeited bond<sup>1</sup> and, consequently, any revenue loss to municipalities under this provision of the bill is anticipated to be less than \$50,000 annually. The state General Fund would experience a revenue gain equal to the municipal revenue loss under this provision.

Section 11 appropriates \$10 million to the Judicial Department to evaluate security in courthouse parking garages and install courthouse security systems. Note that these funds are not included in sHB 7077

<sup>1</sup> They are typically assessed separately, after the bond has been forfeited.

(the Appropriations Act for the 2007-2009 Biennium, as favorably reported from the Appropriations Committee).

The bill makes various other minor, technical and clarifying changes which have no fiscal impact.

### ***The Out Years***

The revenue shift identified above would remain relatively constant into the future since fines are set by statute.

**OLR Bill Analysis****sSB 1398*****AN ACT CONCERNING COURT OPERATIONS.*****SUMMARY:**

The bill authorizes the retention of judicial branch records, papers, and documents using a computer-based imaging system or process and authorizes the retention by computer-based imaging or microfilming of any records, papers, or documents instead of just court records, papers, and documents the Judicial Branch must retain (§ 1). The bill specifies that computer-based images that are accurate reproductions of business records are admissible as evidence in any judicial or administrative proceeding, whether or not the original is in existence (§ 3).

The bill requires the waiver of any copying fee payable to the court clerk by law for a person who is indigent and unable to pay such fee, in accordance with criteria the judicial branch establishes (§ 4).

The bill makes the alternate incarceration plan public for any criminal defendant the court orders to participate in an alternate incarceration program (§ 5).

The bill makes public any request a prosecutor makes after an arrest, to extend an order sealing an affidavit in support of a search warrant. It requires the court to extend the order if it finds that the order is necessary to preserve an interest that is determined to override the public's interest in viewing the affidavit, or for good cause shown (§ 6).

The bill requires the sealing of the written report concerning a criminal defendant's competency to stand trial, but only as to the public, and prohibits disclosure of the report's contents, except during

any hearing about the defendant's competency at which the contents are relied upon by a participant as the basis for testimony, questioning of witnesses, arguments to the court, or judicial findings (§ 7). It also requires that the court state on the record the reasons for its finding that the defendant is competent or not competent (§ 9).

The bill requires records for participation in the pretrial alcohol education program be retained for 10 years instead of seven years (§ 9)

The bill appropriates from the General Fund (1) \$1,000,000 to the Judicial Department for the fiscal year ending June 30, 2008, for an evaluation of security in courthouse parking areas, and (2) \$9,000,000 to the Judicial Department for the fiscal year ending June 30, 2008, for the installation of courthouse security systems (§ 11).

EFFECTIVE DATE: October 1, 2007 except that the provisions dealing with electronic recording and appropriations become effective July 1, 2007.

## **§ 1 — COMPUTER-BASED IMAGING SYSTEM OR PROCESS**

The law authorizes the Chief Court Administrator to microfilm all court records, papers, or documents that are required to be retained by court rule, statute, or administrative directive. The bill authorizes him to also reproduce them as computerized images and to retain by microfilm or computer imaging all other records, papers, or documents the judicial branch must maintain.

The device used to create computerized images must be one that accurately reproduces the original in detail. The bill requires that the computerized image be considered and treated the same as the original records, papers or documents, if a paper or electronic certificate of authenticity is associated with each computerized image in accordance with policies and procedures the Office of the Chief Court Administrator adopts.

The bill defines a "computerized image" as any electronic reproduction of the original by a computer-based imaging system or



process.

## **§ 6 — ORDER SEALING AN AFFIDAVIT IN SUPPORT OF A SEARCH WARRANT**

The bill makes public any request a prosecutor makes after an arrest, to extend an order sealing an affidavit in support of a search warrant. It requires the court to extend the order if it finds that the order is necessary to preserve an interest that is determined to override the public's interest in viewing the affidavit, or for good cause shown (§ 6).

The bill specifies that an oral representation by the prosecuting authority that (1) the personal safety of a confidential informant would be jeopardized, (2) the search is part of a continuing investigation that would be adversely affected, or (3) the unsealing of the affidavit would require disclosure of information or material prohibited from being disclosed by law, may be sufficient to establish good cause. Any such extension must be to a date certain, not to exceed 90 days from the date of the request. The bill authorizes a prosecutor to seek more than one such extension, but no single extension may exceed 90 days.

## **§ 9 — RECORD OF PRETRIAL ALCOHOL EDUCATION PROGRAM**

The bill requires the record of participation in the alcohol education program (AEP) be retained by the Court Support Services Division (CSSD) for 10 years instead of seven years. By law, CSSD must transmit to the Department of Motor Vehicles (DMV) a record of the participation of each person who satisfactorily completes it. The bill requires DMV to maintain the record for 10 years instead of seven years as part of such person's driving record.

By law, CSSD must transmit to the Department of Environmental Protection (DEP) the record of participation of any person who satisfactorily completes the AEP program who has been charged with a violation of certain alcohol-related boating offenses (operating a vessel while under the influence of liquor or drugs; reckless operation of a vessel in the first degree while under the influence of intoxicating liquor or drugs, or reckless operation of a vessel in the second degree

while under the influence of intoxicating liquor or drugs).

The bill requires the DEP to maintain for 10 years instead of seven years the record of a person's participation in such program as a part of such person's boater certification record.

## **§ 10 — FORFEITED BONDS**

Under current law the Judicial Department must send the \$10 additional fee it collects in connection with any forfeited bond for certain motor vehicle violations to the municipality in which the violation occurred. These violations include such offenses as speeding, reckless driving, traveling unreasonably fast, and driving in a right hand lane.

The bill instead specifies that the total amount of any forfeited bond for certain motor vehicle violations, when the bond is composed in part of the \$10 additional fee required by law for such violation be deposited in the General Fund as one undifferentiated lump sum amount or deposited in the Special Transportation Fund as one undifferentiated lump sum amount as may be required by statute. By law, unaffected by this bill, the Judicial Department must send the \$10 fee it collects from fines (not forfeited bonds) paid for these violations to the municipalities in which the violations occurred.

## **BACKGROUND**

### ***Alternate Incarceration Plan***

By law, the court may, in its discretion, order an assessment for criminal defendants except for those the law excludes, for placement in an alternate incarceration program under contract with the Judicial Department. If the department's Court Support Services Division recommends placement in an alternate incarceration program, it must also submit to the court a proposed alternate incarceration plan. Upon completion of the assessment, the court must determine whether the defendant will be ordered to participate in such program as an alternative to incarceration. If the court determines that the defendant must participate in such program, it must suspend any sentence of

imprisonment and make participation in the alternate incarceration program a condition of probation (CGS § 53a-39a).

***Order Sealing an Affidavit in Support of a Search Warrant –  
Related Law***

The law requires that an applicant for the search warrant file the application and all affidavits upon which it is based with the court clerk. The law mandates that within 48 hours of the search, a copy of the application for the warrant and a copy of all affidavits upon which the warrant is based must be given to such owner, occupant, or person named in the warrant. The judge or judge trial referee may, by order, dispense with the requirement of giving a copy of the affidavits to such owner, occupant or person at such time if the applicant for the warrant files a detailed affidavit with the judge or judge trial referee which demonstrates to the judge or judge trial referee that

1. the personal safety of a confidential informant would be jeopardized by the giving of a copy of the affidavits at such time,
2. the search is part of a continuing investigation that would be adversely affected by the giving of a copy of the affidavits at such time, or
3. giving the affidavits at such time would require disclosure of information or material the law prohibits from being disclosed.

By law, no order may limit disclosure of the affidavit to the attorney for a person arrested in connection with or after the execution of a search warrant unless, upon motion of the prosecuting authority within two weeks of the person's arraignment, the court finds that the state's interest in continuing nondisclosure substantially outweighs the defendant's right to disclosure.

The law requires that any order dispensing with the requirement of giving a copy of the warrant application and accompanying affidavits to such owner, occupant or person within 48 hours must be for a

specific period of time up to two weeks beyond the date the warrant is executed. Within that time period, the prosecutor may seek an extension. Upon the execution and return of the warrant, affidavits which have been the subject of such an order must remain in the custody of the clerk's office in a secure location apart from the remainder of the court file (CGS § 54-33c(a)(b)).

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea    40    Nay   0    (04/13/2007)